

REMARKS

Claims 1 and 3 through 27 are pending in the application. The Abstract of the Disclosure has been amended, as set forth above. Applicants have amended claims 1 and 3 through 27. The subject matter of claim 2 has now been included in claim 1. As such, claim 2 has been canceled. New claims 28 through 30 have been added. Applicants note with appreciation that the Office Action (Action) states that claims 25 through 27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Action objects to the Abstract as failing to disclose particularly what the Applicant regards as the invention. Applicants respectfully submit that the Abstract has been amended to more particularly disclose what Applicant's regard as the invention.

Claim 7 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite because claim 7 is identical to claim 2. Applicants respectfully submit that claim 7 has been amended to recite dependency from claim 6. Therefore, it is no longer identical to claim 2, and is definite. As such withdrawal of the §112, second paragraph rejection is respectfully requested.

Claims 1 through 3, 6 through 8, 11 and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,880,417 to Yabrov et al. (Yabrov).

Claim 1 recites a tampon for absorbing body fluids. The tampon has one or more malodor counteractant materials selected from the group consisting of: glycerin, glycerin compound, aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, acid, base, oxidant, chelating agent, ester, masking agent, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, and any mixtures thereof. The one or more malodor counteractant materials is in a liquid form.

Claim 6 recites a tampon for absorbing body fluids. The tampon has one or more malodor counteractant materials. The one or more malodor counteractant materials is naturally sourced.

Claim 11 recites a tampon for absorbing body fluids. The tampon has thereon a malodor counteractant material comprising: glycerin; and at least one additional malodor counteractant material selected from the group consisting of: aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, acid, base, oxidant, chelating agent, ester, masking agent, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, zeolite, and any mixtures thereof.

Yabrov discloses an **anal pad** for preventing soiling of underwear due to undesired anal discharge and for muffling noise due to flatus. A novel feature of the anal pad is the inclusion of glycerin in an absorbing layer **for neutralizing odor caused by hydrogen sulfide gas** (col. 4, lines 41-44).

It is respectfully submitted that nowhere in Yabrov is a **tampon** with one or more malodor counteractant materials, as recited in claims 1, 6, and 11, disclosed or suggested. To the contrary, Yabrov discloses an anal pad with glycerin for the sole purpose of neutralizing odor caused by hydrogen sulfide gas emitted from the anus. *intended use* The claimed tampon, having one or more malodor counteractants neutralizes, suppresses and/or eliminates odors associated with body fluids emanating from a vagina. As noted in Fig. 3 of the present specification, the claimed tampon is very efficient at eliminating vaginal malodor.

Therefore, it is respectfully submitted that Yabrov fails to anticipate claims 1, 6 and 11, in addition to those claims dependant from claims 1, 6 and 11. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the §102(b) rejection.

Claims 4, 5, 9, 10, 13 through 15, and 20 through 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yabrov.

As noted above, Yabrov fails to disclose or suggest a tampon, as recited in claims 1, 6 and 11. Therefore, it follows that Yabrov fails to disclose or suggest a tampon, as recited in claims 4, 5, 9, 10, 13 through 15, and 20 through 23, all of which depend from one of claims 1, 6 and 11, directly or indirectly.

Specifically, as to claims 4, 5, 9 and 10, the Action acknowledges that Yabrov discloses a fibrous absorbent article where the glycerin exists in a ratio of 10:1 and 20:1 versus alcohol, **but fails to disclose that the one or more malodor counteractant materials is present in the amounts recited in claims 4, 5, 9 and 10.** Contrary to the Action's contention that the claimed amounts are an obvious matter of design choice, Applicants respectfully assert that the use of glycerin in the claimed amounts is not arbitrary. As clearly noted in Figs. 2 and 3, in conjunction with the present specification at pages 18-19, use of malodor counteractant, and in this case glycerin, in the claimed amounts produces an article with exceptional malodor counteractant ability.

Therefore, for at least the reasons set forth above, Applicants respectfully assert that the claimed invention is patentably distinguishable over Yabrov. As such, reconsideration and withdrawal of the §103(a) rejection of claims 4, 5, 9, 10, 13 through 15, and 20 through 23 is respectfully requested.

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yabrov in view of U.S. Patent No. 4,525,410 to Hagiwara et al. (Hagiwara).

Yabrov is set forth above. Hagiwara discloses a particle-packed fiber article having antibacterial property. The particles disclosed in Hagiwara are zeolite particles.

Claim 16 recites the tampon of claim 11, wherein the zeolite is a thermal type 3 clinoptilolite.

As noted above, Yabrov fails to disclose or suggest a tampon having a malodor counteractant material comprising glycerin and at least one additional malodor counteractant material selected from the claimed Markush group, as recited in claim 11. Hagiwara fails to cure the deficiencies of Yabrov in that it also fails to disclose or suggest a tampon as recited in claim 11.

In addition, it is respectfully submitted that Hagiwara fails to disclose or suggest a thermal type 3 clinoptilolite. The Action cites col. 3, lines 16-32 as making such a disclosure. However, Applicants note that while Hagiwara does disclose a clinoptilolite ($\text{SiO}_2/\text{Al}_2\text{O}_3=8.5$ to 10.5), it is not a thermal type 3 clinoptilolite, as recited in claim 16. As is evident by the present specification on page 19, lines 21-23, the thermal type 3 clinoptilolite recited in claim 16 has a $\text{SiO}_2/\text{Al}_2\text{O}_3$ ratio of 5.8:1, which is clearly different than the clinoptilolite disclosed in Hagiwara.

Therefore, Applicants respectfully submit that claim 16 is patentably distinguishable over the cited art, taken either alone or in combination. As such, reconsideration and withdrawal of the §103(a) rejection of claim 16 is respectfully requested.

Claims 17 through 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over EP 813848 to The Procter & Gamble Company (P&G).

Claim 17 recites the tampon of claim 11, wherein the acid is citric acid.

Claim 18 recites the tampon of claim 11, wherein the oxidant is ascorbic acid.

Claim 19 recites the tampon of claim 11, wherein the chelating agent is ascorbic acid.

EP 813848 discloses a breathable, disposable absorbent article having an improved odor control system positioned in the absorbent core of the absorbent article. EP 813848 discloses absorbent articles such as sanitary napkins, panty liners,

incontinence products and baby diapers. Notably absent from the disclosure is a tampon.

Applicants respectfully submit that EP 813848 fails to disclose or suggest a tampon having a malodor counteractant material comprising glycerin and at least one additional malodor counteractant material selected from the claimed Markush group, as recited in claim 11. It follows then that claims 17 through 19, which depend directly from claim 11, are patentably distinguishable over the cited art. As such, reconsideration and withdrawal of the §103(a) rejection of claims 17 through 19 is respectfully requested.

Consistent with paragraph 10 of the Action, claims 25 through 27 have been rewritten in independent form. Therefore, claims 25 through 27 are allowable.

Applicants respectfully submit that new claims 28 through 30 are patentably distinguishable over the cited art taken either alone or in combination, as none of the cited references disclose or suggest a fibrous absorbent article comprising one or more of the claimed malodor counteractant materials.

Applicants assert that claims 1 and 3 through 30 are patentably distinguishable over the cited art. As such reconsideration and withdrawal of the above rejections and passage of this application to allowance is respectfully requested.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

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